

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Investigation Into)	Docket No. UT-003022
U S WEST Communications, Inc.'s)	
Compliance with Section 271 of the)	
Telecommunications Act of 1996)	
..... In)		
the Matter of U S WEST Communications,)	Docket No. UT-003040
Inc.'s Statement of Generally Available)	
Terms Pursuant to Section 252(f) of the)	U S WEST'S LEGAL BRIEF
Telecommunications Act of 1996.)	REGARDING ACCESS TO
		U S WEST'S ICNAM DATABASE

INTRODUCTION

Pursuant to the procedural schedule set forth at the workshop proceedings on June 21-23, 2000, U S WEST submits its legal brief regarding the claim of MCI WorldCom ("WCom") that U S WEST should provide WCom with U S WEST's entire InterNetwork Calling Name ("ICNAM") database in its Washington Statement of Generally Available Terms and Conditions ("SGAT").

WCom's request has no basis in the law. The Federal Communication Commission ("FCC") UNE Remand Order¹ and its unbundling rules² make clear that incumbent local exchange carriers ("incumbent LECs") must provide access to their calling name databases on a "per query" basis only. Incumbent LECs are not required to turn over their entire calling name database to their competitors. WCom has identified no valid legal basis for its request, and has identified no provision of the SGAT that conflicts with the FCC's requirements. Indeed, it admitted that it could identify no provision that conflicted with the FCC's rules. Accordingly, the Commission should reject WCom's request for global access to ICNAM on something other than a "per query" basis and find that U S WEST provides access to ICNAM consistent with the FCC's rules and the requirements of 47 U.S.C. § 271(c)(2)(B)(x).

¹ Third Report and Order and Fourth Further Notice of Proposed Rulemaking, *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 99-238 (rel. Nov. 5, 1999) ("UNE Remand Order").

² 47 C.F.R. § 51.319(e)(2).

ARGUMENT

In the UNE Remand Order, the FCC required incumbent LECs to provide access to their call-related databases under 47 U.S.C. §§ 251(c)(3) and 251(d)(2).³ The FCC further stated that competitive local exchange carriers ("CLECs") must be able to obtain access to incumbent LEC calling-name databases, such as ICNAM.⁴ However, the FCC explicitly defined the access to calling-name databases that incumbent LECs must provide as access on a "per query" basis. No provision of the UNE Remand Order supports WCom's claim that incumbent LECs must turn over their *entire* calling-name databases to CLECs. For example, in paragraph 402, the FCC stated:

we require incumbent LECs, upon request, to provide nondiscriminatory access to their call-related databases on an unbundled basis, *for the purpose of switch query and database response* through the SS7 network.⁵

Similarly, Rule 51.319(e)(2)(A) provides that access is on a "per query" basis through signaling transfer points:

*For purposes of switch query and database response through the signaling network, an incumbent LEC shall provide access to its call-related databases, including but not limited to, the Calling Name Database . . . by means of physical access at the signaling transfer point linked to the unbundled databases.*⁶

This is also consistent with the FCC's original conclusions in the first Local Competition Order.⁷

Thus, every provisions of the UNE Remand Order and the FCC's unbundling rules provides that access to ICNAM is only on a "per query" basis by means of physical access through the STP. There is simply no rule requiring U S WEST to provide WorldCom its "entire" ICNAM database.

At the workshop, WCom claimed that U S WEST must provide its entire ICNAM database to WCom because it is "technically feasible" to do so. This argument, however, has been resoundingly rejected by both the United States Court of Appeals for the Eighth

³ UNE Remand Order ¶ 402.

⁴ *Id.* ¶ 406.

⁵ *Id.* ¶ 402 (emphasis added).

⁶ 47 C.F.R. § 51.319(e)(2)(A) (emphasis added).

⁷ First Report and Order, *Implementation of Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket Nos. 96-98, 95-185, 11 FCC Rcd 15499 ¶ 484 (1996) ("We conclude that incumbent LECs, upon request, must provide nondiscriminatory access on an unbundled basis to their call-related databases for the purposes of switch query and database response through the SS7 network We require incumbent LECs to provide this access to their call-related databases by means of physical access at the STP linked to the unbundled database") ("Local Competition Order").

Circuit and the United States Supreme Court.⁸ Both of these courts unambiguously held that "technical feasibility" as used in 47 U.S.C. § 251(c)(3) determines only *where* access to unbundled elements must be provided not *what* must be provided.⁹ Applying this test, the FCC determined that it is technically feasible to provide access at the STP, and the SGAT incorporates this conclusion.¹⁰

In addition, WCom appeared to claim at the workshop that because the FCC required incumbent LECs to provide unbundled access to their calling-name databases, U S WEST must provide access to its *entire* database. Again, WCom misreads the Act and the FCC rules, confusing the duty to provide an unbundled network element with the *access* to the element an incumbent LEC must provide. The FCC concluded that incumbent LECs must provide unbundled access to their calling-name databases, meaning that a CLEC could request access to this database on an unbundled basis. U S WEST provides such access in Sections 9.13.1 and 9.17. The FCC further concluded, as discussed above, that *access* to a calling-name database is on a "switch query and database response" basis by means of physical access through the STP.¹¹ Again, the SGAT provides this access in Section 9.17.

Finally, to the extent WCom claims that global access to ICNAM is "necessary" or the failure to provide such access would "impair" WCom's ability to provide service, that argument has (1) already been addressed and rejected by the FCC and (2) has no support in the record. In determining which network elements incumbent LECs must unbundle, the FCC conducted the "necessary" and "impair" analysis under 47 U.S.C. § 251(d)(2) and determined that incumbent LECs must provide access to calling-name databases on a "per query" basis only. Thus, the FCC has decided this matter, and this Commission cannot revisit that determination. Regardless, WCom presented no evidence whatsoever to support a claim that global access to ICNAM is "necessary" or the failure to provide such access would "impair" its ability to provide service within the meaning of the FCC's rules and the Act. Thus, the Commission should reject any claim that U S WEST must provide global access to its entire ICNAM database.

CONCLUSION

WCom has raised no basis for its claim that U S WEST must provide access to entire ICNAM database in its SGAT to satisfy the requirements of 47 U.S.C. §§ 251 or 271. In essence, WCom's request boils down to an assertion that it wants such global access, so U S WEST must provide it. The Act, however, does not require incumbent LECs to meet every demand of their competitors. Although U S WEST and WCom may agree in separate negotiations on terms that would permit WCom the access it provides while protecting U S WEST's business and proprietary interests, this proceeding is not the

⁸ *Iowa Utils. Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997), *aff'd in part, rev'd in part sub nom.*, *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999); *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999).

⁹ *AT&T Corp.*, 525 U.S. at 391; *Iowa Utils. Bd.*, 120 F.3d at 810;

¹⁰ SGAT § 9.17.

¹¹ UNE Remand Order ¶ 402; 47 C.F.R. § 51.319(e)(2)(A).

proper one in which to explore that possibility. The SGAT is U S WEST's standard offering to *all* CLECs, and nothing in the Act requires U S WEST to provide the global access WCom requests.

DATED this ____ day of July, 2000

Respectfully submitted,

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CERTIFICATE OF SERVICE
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I hereby certify that I have this 6th day of July 2000, caused the foregoing **U S WEST's Legal Brief Regarding Access to U S WEST's ICNAM Database** to be served upon all parties of record in this proceeding, via first class mail.

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